

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **VICE CHAIRMAN CAROL C. JUNEAU**, on February 4, 2005 at 3:30 P.M., in Room 102 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Carol C. Juneau, Vice Chairman (D)  
Rep. John E. Witt, Vice Chairman (R)  
Rep. Tim Callahan (D)  
Rep. Eve Franklin (D)  
Rep. Ray Hawk (R)  
Rep. Cynthia Hiner (D)  
Rep. Joey Jayne (D)  
Rep. Christine Kaufmann (D)  
Rep. Ralph L. Lenhart (D)  
Rep. Walter McNutt (R)  
Rep. Penny Morgan (R)  
Rep. John L. Musgrove (D)  
Rep. Rick Ripley (R)  
Rep. Jon C. Sesso (D)  
Rep. John Sinrud (R)  
Rep. Janna Taylor (R)  
Rep. Jack Wells (R)

**Members Excused:** Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Rep. Bill E. Glaser (R)

**Members Absent:** Rep. Verdell Jackson (R)

**Staff Present:** Marcy McLean, Committee Secretary  
Jon Moe, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 505, 2/1/2005; HB 270, 2/1/2005;  
HB 496, 2/1/2005  
Executive Action: HB 268

**HEARING ON HB 505****Opening Statement by Sponsor:**

**REP. GARY MATTHEWS, HD 40**, opened the hearing on **HB 505**, a bill requesting installation of an interactive videoconferencing system at Pine Hills School. Their staff has to do a lot of training in Helena and the videoconferencing system would help with that.

**Proponents' Testimony:**

**Steve Gibson, Youth Services Administrator, Department of Corrections**, said corrections staff is required to complete 120 hours per year of juvenile specific training at the Montana Law Enforcement Academy in Helena. The Academy says they would be able to do this training on-site at Pine Hills. It costs about \$7,000-\$10,000 per year in training costs, so the \$70,000 appropriation would be covered in six to seven years. The cost savings comes from two days' travel, per diem, overtime replacement for these 24/7 positions when they are gone for three weeks of training. The Montana Supreme Court uses Vision Net and Pine Hills could use this system for hearings, revocations and other types of training. Larry Batista, Department of Justice, and Lois Menzies, Legislative Services, both support this bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MORGAN** asked if there were any other corrections facilities being left out of this bill. **Steve Gibson** said, "Yes". In the future, they would like to have this system at the Montana Women's Prison, which would allow the Juvenile Detention Center in Billings to take part in this on-site training. Also, Juvenile Detention, which is required to do this 120 hours of training, may be able to do this on-site (i.e., Missoula Detention Center, Great Falls Detention Center). Also, with the videoconferencing system at Pine Hills, the Miles City community could also access it.

**REP. SINRUD** asked about the long-term expenses. **Steve Gibson** answered that of the \$70,000 appropriated, \$49,000 would be for the equipment and set-up, approximately \$15,000 to install the necessary lines, and \$1,000 for internal wiring.

**REP. WITT** asked why they were requesting an appropriation rather than a decision package. **Steve Gibson** said they only learned of

this videoconferencing option about two months ago from the Montana Law Enforcement Academy. They didn't have the details back in September when they did the decision package.

**Closing by Sponsor:**

**REP. MATTHEWS** said Pine Hills is a year-round school and at times they have three to five kids who have received their GED or high school diploma who could use this system to take college credits.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.5}*

**HEARING ON HB 270**

**Opening Statement by Sponsor:**

**REP. MONICA LINDEEN, HD 43**, opened the hearing on **HB 270**, a bill intending to revise the primary sector business workforce training program. She pointed out that this bill has passed both the Business and Labor Committee and the House. HB 270 would transfer administration of the program from the Governor's Office to the Department of Commerce and it revises the funding mechanism. The Legislative Audit Office determined that funding the workforce training program was not the best use of the InterCap Loan Program. HB 271 is the supplemental bill that would pay for the workforce training that has already been done. In Section 2 of the bill, the Appropriations Committee may want to review the appointment of business community representatives to the grant review committee. They may also want to consider requiring these business representatives to be commercial bankers.

**Proponents' Testimony:**

**Evan Barrett, Governor's Office of Economic Development**, said they support HB 270 and HB 271, its companion. He urged the Committee to move both bills forward concurrently; one does not work without the other. The Legislative Auditor's Office found that the InterCap Program was an inappropriate mechanism for funding the job training grants. They also stated the program should be administrated in the Department of Commerce, not out of the Governor's Office. The \$2.17 million funding for HB 271 is through a general fund appropriations and is in Governor Schweitzer's budget. This is to make payment to the five private companies that did training for 434 new jobs. He said he respectfully disagrees with REP. LINDEEN regarding there not being adequate review of grant applications. Previously, companies have had to go through two levels of review, both of

which were thorough. First was with the review board and the second was with the Board of Investments.

**Andy Pool, Department of Commerce**, handed out information on the workforce training pilot program that has been operating through the Department of Commerce for several years.

**EXHIBIT(aph28a01)**

After companies have provided the training, their employees must receive a minimum wage of \$13.39 per hour in salary and benefits. The Department feels the purpose of these training grants is to support higher wage jobs in Montana. They feel they are ready to accept the transfer of the Governor's Workforce Training Program to their department.

**Joe McClure, Big Sky Economic Development Authority**, said his group worked on one of the original projects. Bresnan Communications relocated to Billings, created 125 new jobs in that community, and relied on the workforce training money to train those employees. He said he is a member of the review board and believes they do a thorough job of reviewing applications.

**Charles Brooks, Yellowstone County Commissioners, and Billings, Helena, and Great Falls Chambers of Commerce**, and said these four entities support HB 270.

**Riley Johnson, National Federation of Independent Businesses**, said his group and the Montana Chamber of Commerce support HB 270. This program has worked. Even though the fiscal note states revenue at zero, he believes that is not true. The program created 434 good-paying jobs; if each job paid \$1,000 in state taxes, that is \$434,000 in revenue to the State of Montana. The goal is create a minimum of 400 new jobs per year, which would create a lot of new revenue for the state.

**Gary Amestoy, Richland County Economic Development Corporation**, said this is a good tool for economic development.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. KAUFMANN** asked about the wage goal of \$13.39 per hour. **Andy Pool** answered that was a benchmark used in the Department of Commerce's pilot program, and is not in HB 270. The Bill talks about the minimum wage that needs to be paid to these trained workers; i.e., state average wage and state per county average

wage. They feel if we are using state resources to fund job training, then they are getting good-paying jobs.

**{Tape: 1; Side: A; Approx. Time Counter: 13.5 - 32.6; Comments: end of Side A}**

**Rep. Lindeen** said on Page 5, §4, it states, "new job that has an average weekly wage that meets or exceeds the lesser of Montana's current average weekly wage or the current average weekly wage of the county in which the employees are to be principally employed." It is very important that if they are going to provide state resources for job training, then these jobs need to be good-paying jobs.

**REP. KAUFMANN** asked if there's anything that prevents a business from moving out of state within a year or two. **Evan Barrett** first responded to the question on wages by saying they don't want to force a high Montana average wage on a county that has a lower average. The cost of benefits can be included in this average wage. Secondly, on Page 6 of HB 270 it states that if the business ceases operation within two years, they are obligated to repay the grant to the state.

**{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.2}**

**REP. RIPLEY** said in reviewing the Department of Commerce's pilot program, he finds that several of the businesses are listed more than once. He asked about the number of applicants and why some were awarded grants more than once. **Andy Pool** said the list encompasses three to four years. Some of the companies are fast-growing and reapplied in succeeding years because they were hiring new employees. The grant money is provided after the training is completed. He used as an example Stone Container which has been under significant pressure from their parent company to reduce costs in order to stay in business. If Stone Container gets in trouble, numerous mills in Montana would be in trouble because they supply the wood chips for Stone's production of cardboard. Typically there are five to ten applicants per year. The annual allocation of funds from the Governor's Office has usually been between \$350,000-\$700,000, and it is gone within one or two months. There is a significant need for money for job training.

**REP. MORGAN** said she thought the provision stating a grant recipient that ceases operation has to pay back the state, should add "ceases business in Montana."

**REP. KAUFMANN** asked if HB 271 makes good on our past obligations and HB 270 implement this program permanently and the base funding. **Evan Barrett** said HB 271 makes good on the previous commitments; if HB 270 does not pass, then they would be washing

the program away. Previously, the program used InterCap loans and it had a maximum level of \$10 million and after that the program would have to cease. Now, it would be a permanent program using general funds subject to appropriation from the Legislature.

**REP. MORGAN** asked why, on Page 7 Line 18, the effective date is upon passage of the bill instead of July 1st and if there would be any problem if the appropriation didn't happen until July 1st. **Evan Barrett** said the objective is to get the contracts transferred to the Department of Commerce immediately so they can get started fulfilling their duties, paying the outstanding five contracts, modifying the rules, and be ready to "hit the road" beginning July 1st. He said the appropriation is in HB 2 and it does not begin until July 1st. The \$2.17 million supplemental pays the five companies that created the 434 new jobs.

**{Tape: 1; Side: B; Approx. Time Counter: 5.2 - 16.7}**

**Closing by Sponsor:**

**REP. LINDEEN** said the reason HB 270 is "effective upon passage and approval" has to do with the InterCap loan funding being taken away. If this bill is passed, the general fund supplemental in HB 271 cannot be used to pay the five companies who created 434 new jobs; the state would have to use the InterCap Loan Program since general funds cannot be used.

**{Tape: 1; Side: B; Approx. Time Counter: 16.7 - 18.8}**

**HEARING ON HB 496**

**Opening statement by Sponsor:**

**REP. EVE FRANKLIN, HD 24**, opened the hearing on **HB 496**, a bill to restrict vacancy savings for state facilities that provide 24 per 7 direct care services. Over the past eight years the state has focused heavily on vacancy savings to balance the budget. There is merit to that in large agencies, but agencies that provide direct care 24 per 7 really struggle with this requirement. The institutions included in this bill are: Montana School for the Deaf and Blind, Pine Hills, Montana Developmental Center, Montana Mental Health Nursing Care Center, Veterans Homes, Women's Prison, and Montana State Prison. The amendment to this bill includes the Montana State Hospital in Boulder and the Montana Chemical Dependency Center.

This is an expensive endeavor; however, it's not reasonable to expect these agencies to count on vacancy savings to balance

their budgets. They have a finite service to provide and there are direct human consequences to the care of their residents.

**Proponents' Testimony:**

**Todd Lovshin, MEA-MFT**, said the required 4% vacancy savings cause a continuing dilemma to agencies who provide 24 per 7 care. He asked, "How do you keep a position vacant when somebody is required to be providing care at all times?" Vacancy savings requires that existing staff work overtime, which is not efficient and does not save money. It also leads to safety violations, diminished care and possible litigation against the State of Montana.

**Tom Schneider, MPEA**, said he represents the employees at Pine Hills and the Mental Health Center in Lewistown. The state needs to appropriate what it takes to run the institutions, rather than relying on vacancy savings to balance the budget.

***{Tape: 1; Side: B; Approx. Time Counter: 18.8 - 26}***

**Bob Runkel, Special Education, Office of Public Instruction**, said they work closely with the School for the Deaf and Blind and are concerned about the impact of vacancy savings on them and their ability to provide direct care.

**Opponents' Testimony:**

**Amy Sassano, Governor's Budget Office**, said vacancy savings has always been a controversial issue instate budgeting. The intent is to recognize that agencies have employee turnover and there will be some savings generated by those vacancies. They also recognize that some agencies won't be able to achieve the assessed level of vacancy savings, especially those with 24 per 7 obligations, by including a personal services contingency appropriation. This appropriation is normally made in the pay plan bill and is currently located in HB 447. This appropriation is allocated to state agencies who, based on need, cannot meet their vacancy savings requirements. The Governor's Budget Office does not support HB 496 because of its price tag and because it hamstring a budgetary tool.

**Informational Testimony:**

**Steve Gibson, Department of Corrections**, asked the Committee to include three facilities that have been overlooked: Riverside Youth Correctional Facility, Boot Camp, and Youth Transitional Center.

**Questions from Committee Members and Responses:**

**REP. MORGAN** said the Health and Human Services Subcommittee has discussed this bill. She said she found that the contingency fund has hardly been appropriated any money; and the money that was allocated when to departments that had very few employees. She also asked how much money is in the contingency fund. **Amy Sassano** answered that the contingency fund is at the Budget Director's discretion. In the 2003 biennium they appropriated \$376,000 to the Department of Public Health and Human Services (DPHHS); in the 2005 biennium, when they also had access to the federal tax relief funds, they appropriated \$800,000 to the DPHHS. The personal services contingency fund balance for the 2005 biennium is \$500,000.

**{Tape: 1; Side: B; Approx. Time Counter: 26 - 32.6; Comments: End of Tape 1}**

**REP. MORGAN** pointed out that the effective date of this bill is "upon passage and approval," which means that the decision package they passed for overtime would not be necessary. Therefore, she asked if they could take that money back from the DPHHS budget. **Jeff Sterns, Disabilities Division, DPHHS**, said overtime is a critical issue at the Montana Developmental Center and other facilities. He said the overtime budget is based on a vacancy savings of 3-4%. They will always need some overtime, but if they could get it down to zero they would certainly be able to reduce overtime.

**REP. JAYNE** said the Health and Human Services Subcommittee has not discussed this bill with DPHHS and asked about its impact on the department. **Jeff Sterns** said they not aware of this bill. He said if it passed, the would have to look at the 4% vacancy savings in their budget and make adjustments

**REP. MUSGROVE** referred to the Legislative Audit report regarding the 4% vacancy savings and asked why the Governor's Budget Office is fond of using this as a budgeting tool. **Amy Sassano** answered that the issue of vacancy savings is a part of the bigger issue of how the state of Montana budgets for personal services. They are looking at a large of list of things they want to work on in the interim, and vacancy savings is on that list.

**REP. KAUFMANN** asked if state direct care workers who do not work in institutions, such as social workers, could be included in this bill. She also asked if there was merit in reducing the vacancy savings from 4% to 1% and not eliminating it all together. **Rep. Franklin** said the reality of any hope of passage of this bill, will be to limit who is included. She agreed there

was merit in considering amending the bill to limiting vacancy savings.

**{Tape: 2; Side: A; Approx. Time Counter: 0 - 9.9}**

**REP. SINRUD** asked if each subcommittee could choose not to require vacancy savings within an agency. **Amy Sassano** said that is the prerogative of each subcommittee.

**REP. RIPLEY** asked if the bill could be amended to include the three state institutions that were overlooked. **Rep. Franklin** said she has brought an amendment that includes those three institutions.

**EXHIBIT** (aph28a02)

**REP. TAYLOR** asked what the vacancy savings is for DPHHS institutions. **Jeff Sterns** said it is approximately 1-2%. They hold positions open because they know they have to achieve vacancy savings.

**REP. TAYLOR** said the state of Montana currently has an average vacancy savings of over 8% and asked how can they do the budget without using vacancy savings.

**Closing by Sponsor:**

**REP. FRANKLIN** within the agencies, there has developed a "culture" of vacancy savings. Employees are asked frequently to work overtime in order to cover for the vacant position, and it seems to promote learned helplessness. Employees get tired, morale is low, direct care is hard work and is not paid well, so employees leave.

She said she would need to look at the details of the audit report, i.e., what agencies, under what circumstances, what are the impacts, before she could answer the questions, "Could the state balance their budget without vacancy savings?" In the long term, the state should look to move away from using vacancy savings in direct care facilities to balance the budget.

**{Tape: 2; Side: A; Approx. Time Counter: 9.9 - 17.8}**

**EXECUTIVE ACTION ON HB 268**

**Motion per Vote:** **REP. SINRUD** moved that HB 268 DO PASS. Motion failed 10-10 by roll call vote with REPS. GLASER, HAWK, JACKSON, MCNUTT, MORGAN, RIPLEY, SINRUD, TAYLOR, WELLS, and WITT voting aye. REPS. GLASER, JACKSON, and BUZZAS voted by proxy.

**ADJOURNMENT**

Adjournment: 4:55 P.M.

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REP. ROSALIE (ROSIE) BUZZAS, Chairman

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MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

**EXHIBIT ([aph28aad0.PDF](#))**